

1 ALEXANDER J. HADJIS (Pro Hac Vice)  
2 Alexander.Hadjis@cwt.com  
3 CADWALADER, WICKERSHAM & TAFT LLP  
4 700 Sixth Street, NW  
5 Washington, DC 20001  
6 Telephone: (202) 862-2323  
7 Facsimile: (202) 862-2400

8  
9 RUDY Y. KIM (CA SBN 199426)  
10 RudyKim@mofo.com  
11 MORRISON & FOERSTER LLP  
12 755 Page Mill Road  
13 Palo Alto, California 94304  
14 Telephone: (650) 813-5600  
15 Facsimile: (650) 494-0792

16 JOSHUA A. HARTMAN (Pro Hac Vice)  
17 JHartman@mofo.com  
18 MORRISON & FOERSTER LLP  
19 2000 Pennsylvania Avenue, NW  
20 Suite 6000  
21 Washington, DC 20006  
22 Telephone: (202) 887-1500  
23 Facsimile: (202) 887-0763

24  
25 Attorneys for Defendant-Counterclaimant  
26 FREESCALE SEMICONDUCTOR, INC.

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
689  
690  
691  
692  
693  
694  
695  
696  
697  
697  
698  
699  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
789  
790  
791  
792  
793  
794  
795  
796  
797  
797  
798  
799  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
889  
890  
891  
892  
893  
894  
895  
896  
897  
897  
898  
899  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
989  
990  
991  
992  
993  
994  
995  
996  
997  
997  
998  
999  
999  
1000  
1001  
1002  
1003  
1004  
1005  
1006  
1007  
1008  
1009  
1009  
1010  
1011  
1012  
1013  
1014  
1015  
1016  
1017  
1018  
1019  
1019  
1020  
1021  
1022  
1023  
1024  
1025  
1026  
1027  
1028  
1029  
1029  
1030  
1031  
1032  
1033  
1034  
1035  
1036  
1037  
1038  
1039  
1039  
1040  
1041  
1042  
1043  
1044  
1045  
1046  
1047  
1048  
1049  
1049  
1050  
1051  
1052  
1053  
1054  
1055  
1056  
1057  
1058  
1059  
1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078  
1079  
1079  
1080  
1081  
1082  
1083  
1084  
1085  
1086  
1087  
1088  
1089  
1089  
1090  
1091  
1092  
1093  
1094  
1095  
1096  
1097  
1097  
1098  
1099  
1099  
1100  
1101  
1102  
1103  
1104  
1105  
1106  
1107  
1108  
1109  
1109  
1110  
1111  
1112  
1113  
1114  
1115  
1116  
1117  
1118  
1119  
1119  
1120  
1121  
1122  
1123  
1124  
1125  
1126  
1127  
1128  
1129  
1129  
1130  
1131  
1132  
1133  
1134  
1135  
1136  
1137  
1138  
1139  
1139  
1140  
1141  
1142  
1143  
1144  
1145  
1146  
1147  
1148  
1149  
1149  
1150  
1151  
1152  
1153  
1154  
1155  
1156  
1157  
1158  
1159  
1159  
1160  
1161  
1162  
1163  
1164  
1165  
1166  
1167  
1168  
1169  
1169  
1170  
1171  
1172  
1173  
1174  
1175  
1176  
1177  
1178  
1179  
1179  
1180  
1181  
1182  
1183  
1184  
1185  
1186  
1187  
1188  
1189  
1189  
1190  
1191  
1192  
1193  
1194  
1195  
1196  
1197  
1197  
1198  
1199  
1199  
1200  
1201  
1202  
1203  
1204  
1205  
1206  
1207  
1208  
1209  
1209  
1210  
1211  
1212  
1213  
1214  
1215  
1216  
1217  
1218  
1219  
1219  
1220  
1221  
1222  
1223  
1224  
1225  
1226  
1227  
1228  
1229  
1229  
1230  
1231  
1232  
1233  
1234  
1235  
1236  
1237  
1238  
1239  
1239  
1240  
1241  
1242  
1243  
1244  
1245  
1246  
1247  
1248  
1249  
1249  
1250  
1251  
1252  
1253  
1254  
1255  
1256  
1257  
1258  
1259  
1259  
1260  
1261  
1262  
1263  
1264  
1265  
1266  
1267  
1268  
1269  
1269  
1270  
1271  
1272  
1273  
1274  
1275  
1276  
1277  
1278  
1279  
1279  
1280  
1281  
1282  
1283  
1284  
1285  
1286  
1287  
1288  
1289  
1289  
1290  
1291  
1292  
1293  
1294  
1295  
1296  
1297  
1297  
1298  
1299  
1299  
1300  
1301  
1302  
1303  
1304  
1305  
1306  
1307  
1308  
1309  
1309  
1310  
1311  
1312  
1313  
1314  
1315  
1316  
1317  
1318  
1319  
1319  
1320  
1321  
1322  
1323  
1324  
1325  
1326  
1327  
1328  
1329  
1329  
1330  
1331  
1332  
1333  
1334  
1335  
1336  
1337  
1338  
1339  
1339  
1340  
1341  
1342  
1343  
1344  
1345  
1346  
1347  
1348  
1349  
1349  
1350  
1351  
1352  
1353  
1354  
1355  
1356  
1357  
1358  
1359  
1359  
1360  
1361  
1362  
1363  
1364  
1365  
1366  
1367  
1368  
1369  
1369  
1370  
1371  
1372  
1373  
1374  
1375  
1376  
1377  
1378  
1379  
1379  
1380  
1381  
1382  
1383  
1384  
1385  
1386  
1387  
1388  
1389  
1389  
1390  
1391  
1392  
1393  
1394  
1395  
1396  
1397  
1397  
1398  
1399  
1399  
1400  
1401  
1402  
1403  
1404  
1405  
1406  
1407  
1408  
1409  
1409  
1410  
1411  
1412  
1413  
1414  
1415  
1416  
1417  
1418  
1419  
1419  
1420  
1421  
1422  
1423  
1424  
1425  
1426  
1427  
1428  
1429  
1429  
1430  
1431  
1432  
1433  
1434  
1435  
1436  
1437  
1438  
1439  
1439  
1440  
1441  
1442  
1443  
1444  
1445  
1446  
1447  
1448  
1449  
1449  
1450  
1451  
1452  
1453  
1454  
1455  
1456  
1457  
1458  
1459  
1459  
1460  
1461  
1462  
1463  
1464  
1465  
1466  
1467  
1468  
1469  
1469  
1470  
1471  
1472  
1473  
1474  
1475  
1476  
1477  
1478  
1479  
1479  
1480  
1481  
1482  
1483  
1484  
1485  
1486  
1487  
1488  
1489  
1489  
1490  
1491  
1492  
1493  
1494  
1495  
1496  
1497  
1497  
1498  
1499  
1499  
1500  
1501  
1502  
1503  
1504  
1505  
1506  
1507  
1508  
1509  
1509  
1510  
1511  
1512  
1513  
1514  
1515  
1516  
1517  
1518  
1519  
1519  
1520  
1521  
1522  
1523  
1524  
1525  
1526  
1527  
1528  
1529  
1529  
1530  
1531  
1532  
1533  
1534  
1535  
1536  
1537  
1538  
1539  
1539  
1540  
1541  
1542  
1543  
1544  
1545  
1546  
1547  
1548  
1549  
1549  
1550  
1551  
1552  
1553  
1554  
1555  
1556  
1557  
1558  
1559  
1559  
1560  
1561  
1562  
1563  
1564  
1565  
1566  
1567  
1568  
1569  
1569  
1570  
1571  
1572  
1573  
1574  
1575  
1576  
1577  
1578  
1579  
1579  
1580  
1581  
1582  
1583  
1584  
1585  
1586  
1587  
1588  
1589  
1589  
1590  
1591  
1592  
1593  
1594  
1595  
1596  
1597  
1597  
1598  
1599  
1599  
1600  
1601  
1602  
1603  
1604  
1605  
1606  
1607  
1608  
1609  
1609  
1610  
1611  
1612  
1613  
1614  
1615  
1616  
1617  
1618  
1619  
1619  
1620  
1621  
1622  
1623  
1624  
1625  
1626  
1627  
1628  
1629  
1629  
1630  
1631  
1632  
1633  
1634  
1635  
1636  
1637  
1638  
1639  
1639  
1640  
1641  
1642  
1643  
1644  
1645  
1646  
1647  
1648  
1649  
1649  
1650  
1651  
1652  
1653  
1654  
1655  
1656  
1657  
1658  
1659  
1659  
1660  
1661  
1662  
1663  
1664  
1665  
1666  
1667  
1668  
1669  
1669  
1670  
1671  
1672  
1673  
1674  
1675  
1676  
1677  
1678  
1679  
1679  
1680  
1681  
1682  
1683  
1684  
1685  
1686  
1687  
1688  
1689  
1689  
1690  
1691  
1692  
1693  
1694  
1695  
1696  
1697  
1697  
1698  
1699  
1699  
1700  
1701  
1702  
1703  
1704  
1705  
1706  
1707  
1708  
1709  
1709  
1710  
1711  
1712  
1713  
1714  
1715  
1716  
1717  
1718  
1719  
1719  
1720  
1721  
1722  
1723  
1724  
1725  
1726  
1727  
1728  
1729  
1729  
1730  
1731  
1732  
1733  
1734  
1735  
1736  
1737  
1738  
1739  
1739  
1740  
1741  
1742  
1743  
1744  
1745  
1746  
1747  
1748  
1749  
1749  
1750  
1751  
1752  
1753  
1754  
1755  
1756  
1757  
1758  
1759  
1759  
1760  
1761  
1762  
1763  
1764  
1765  
1766  
1767  
1768  
1769  
1769  
1770  
1771  
1772  
1773  
1774  
1775  
1776  
1777  
1778  
1779  
1779  
1780  
1781  
1782  
1783  
1784  
1785  
1786  
1787  
1788  
1789  
1789  
1790  
1791  
1792  
1793  
1794  
1795  
1796  
1797  
1797  
1798  
1799  
1799  
1800  
1801  
1802  
1803  
1804  
1805  
1806  
1807  
1808  
1809  
1809  
1810  
1811  
1812  
1813  
1814  
1815  
1816  
1817  
1818  
1819  
1819  
1820  
1821  
1822  
1823  
1824  
1825  
1826  
1827  
1828  
1829  
1829  
1830  
1831  
1832  
1833  
1834  
1835  
1836  
1837  
1838  
1839  
1839  
1840  
1841  
1842  
1843  
18

## TABLE OF CONTENTS

	Page	
2	NOTICE OF MOTION .....	1
3	RELIEF REQUESTED .....	1
4	MEMORANDUM OF POINTS AND AUTHORITIES .....	2
5	I. INTRODUCTION .....	2
6	II. LEGAL STANDARD .....	2
7	III. FREESCALE IS ENTITLED TO JUDGMENT OF NON-INFRINGEMENT .....	3
8	A. Freescale Does Not Infringe U.S. Patent No. 6,088,753 As A Matter of Law .....	3
9	B. Freescale Does Not Infringe U.S. Patent No. 6,738,845 As A Matter of Law .....	3
10	1. The Accused Products Lack a Second Slave Subsystem .....	4
11	2. The Requests for Access to the Slave Subsystems of Accused Products are Not Set at the Same Priority .....	5
12	C. Freescale Does Not Infringe U.S. Patent No. 6,889,331 As A Matter of Law .....	6
13	1. The Registers of the Accused Products Do Not Hold a Clock Frequency Requirement .....	6
14	IV. FREESCALE IS ENTITLED TO JUDGMENT OF NON-INFRINGEMENT UNDER THE DOCTRINE OF EQUIVALENTS .....	7
15	V. FREESCALE IS ENTITLED TO JUDGMENT OF NO WILLFUL INFRINGEMENT .....	8
16	VI. FREESCALE IS ENTITLED TO JUDGMENT OF NO INDIRECT INFRINGEMENT .....	12
17	VII. CONCLUSION .....	14

1  
2                   **TABLE OF AUTHORITIES**  
3

	<b>Page(s)</b>
<b>CASES</b>	
<u>Bard Peripheral Vascular, Inc. v. W.L. Gore &amp; Assocs., Inc.</u> , 682 F.3d 1003 (Fed. Cir. 2012).....	9
<u>Commil USA, LLC v. Cisco Sys., Inc.</u> , 720 F.3d 1361 (Fed. Cir. 2013).....	12, 14
<u>DSU Med. Corp. v. JMS Co. Ltd.</u> , 471 F.3d 1293 (Fed. Cir. 2006) ( <u>en banc</u> ).....	12, 14
<u>Ecolab, Inc. v. FMC Corp.</u> , 569 F.3d 1335 (Fed. Cir. 2009), <u>amended on reh'g in part</u> , 366 F. App'x 154 (Fed. Cir. 2009) .....	14
<u>Fujitsu Ltd. v. Netgear Inc.</u> , 620 F.3d 1321 (Fed. Cir. 2010).....	13
<u>Ginsburg v. Richardson</u> , 436 F.2d 1146 (3d Cir. 1971).....	2
<u>Global-Tech Appliances, Inc. v. SEB S.A.</u> , 131 S. Ct. 2060 (2011) .....	12, 13
<u>Gustafson, Inc. v. Intersystems Indus. Prods., Inc.</u> , 897 F.2d 508 (Fed. Cir. 1990).....	9
<u>i4i Ltd. P'ship v. Microsoft Corp.</u> , 598 F.3d 831 (Fed. Cir. 2010).....	10
<u>ICU Med., Inc. v. RyMed Techs., Inc.</u> , 752 F. Supp. 2d 486 (D. Del. 2010).....	11
<u>In re Seagate Tech., LLC</u> , 497 F.3d 1360 (Fed. Cir. 2007) ( <u>en banc</u> ).....	8, 11
<u>Kyocera Wireless Corp. v. Int'l Trade Comm'n</u> , 545 F.3d 1340 (Fed. Cir. 2008).....	12, 13
<u>LML Holdings, Inc. v. Pac. Coast Dist. Inc.</u> , No. 11-CV-06173 YGR, 2012 WL 1965878 (N.D. Cal. May 30, 2012).....	10, 11
<u>Markman v. Westview Instruments, Inc.</u> , 52 F.3d 967 (Fed. Cir. 1995) ( <u>en banc</u> ), <u>aff'd</u> , 517 U.S. 370 (1996) .....	3
<u>Network Commerce, Inc. v. Microsoft Corp.</u> , 422 F.3d 1353 (Fed. Cir. 2005).....	7
FREESCALE'S JMOL ON LITERAL INFRINGEMENT, DOE, DIRECT INFRINGEMENT, WILLFUL INFRINGEMENT	
CASE No. 4:11-CV-05341 YGR (JSC)	

1	<u>Powell v. Home Depot U.S.A., Inc.,</u> 663 F.3d 1221 (Fed. Cir. 2011).....	9
2		
3	<u>Princeton Biochemicals, Inc. v. Beckman Ins., Inc.,</u> 180 F.R.D. 254 (D.N.J. 1997).....	11
4		
5	<u>Radware, Ltd. v. A10 Networks, Inc.,</u> No. C-13-02021-RMW, 2013 U.S. Dist. LEXIS 136942 (N.D. Cal. Sept. 24, 2013).....	14
6		
7	<u>Sealant Sys. Int'l, Inc. v. TEK Global,</u> No. C 11-0074 PSG, 2012 WL 13662 (N.D. Cal. Jan. 4, 2012).....	10
8		
9	<u>Solvay S.A. v. Honeywell Int'l, Inc.,</u> 622 F.3d 1367 (Fed. Cir. 2010).....	3
10		
11	<u>Spine Solutions, Inc. v. Medtronic Sofamor Danek USA, Inc.,</u> 620 F.3d 1305 (Fed. Cir. 2010).....	9
12		
13	<u>Sullivan v. Cnty. of Allegheny, Pa.,</u> 112 Fed. App'x 176 (3d Cir. 2004).....	2
14		
15	<u>TIP Sys., LLC v. Phillips &amp; Brooks/Gladwin, Inc.,</u> 529 F.3d 1364 (Fed. Cir. 2008).....	7
16		
17	<u>Unisone Strategic IP, Inc. v. Life Techs. Corp.,</u> No. 3:13-cv-1278-GPC-JMA, 2013 U.S. Dist. LEXIS 151761 (S.D. Cal. Oct. 22, 2013).....	13
18		
19	<u>Vita-Mix Corp. v. Basic Holding, Inc.,</u> 581 F.3d 1317 (Fed. Cir. 2009).....	13
20		
21	<u>VNUS Med. Techs., Inc., v. Diomed Holdings, Inc.,</u> 527 F. Supp. 2d 1072 (N.D. Cal. 2007) .....	11
22		
23	<u>Voda v. Cordis Corp.,</u> 536 F.3d 1311 (Fed. Cir. 2008).....	7
24		
25	<u>White v. Ford Motor Co.,</u> 312 F.3d 998 (9th Cir. 2002).....	2
26		
27	<b>STATUTES AND OTHER AUTHORITIES</b>	
28		
	FREESCALE'S JMOL ON LITERAL INFRINGEMENT, DOE, DIRECT INFRINGEMENT, WILLFUL INFRINGEMENT CASE No. 4:11-CV-05341 YGR (JSC)	

## **NOTICE OF MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that as soon as the matter may be heard by The Honorable  
4 Yvonne Gonzalez Rogers at the United States District Court for the Northern District of  
5 California, Oakland Courthouse, 1301 Clay Street, Oakland, CA 94612, Defendant and  
6 Counterclaimant Freescale Semiconductor, Inc. (Freescale) shall and hereby does respectfully  
7 seek an order granting judgment as a matter of law. This motion is based on this notice of motion  
8 and supporting memorandum, the trial record, and such other written or oral argument as was  
9 presented and may be presented at or before the time this motion is taken under submission by the  
10 Court.

## **RELIEF REQUESTED**

12                   Freescale respectfully seeks an order granting it judgment as a matter of law that plaintiff  
13                   MediaTek Inc. (MediaTek) has failed to show that: (A) Freescale has literally infringed any of the  
14                   patents-in-suit; (B) Freescale has infringed any of the patents-in-suit under the doctrine of  
15                   equivalents; (C) Freescale has willfully infringed any of the patents-in-suit; and/or (D) Freescale  
16                   is liable for indirect infringement of any of the patents-in-suit.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

3 MediaTek has failed to meet its burden regarding several issues in its case. MediaTek has  
4 failed to prove that Freescale literally infringes the patents-in-suit. MediaTek has not met its  
5 evidentiary burden to prove that Freescale infringes the patents-in-suit under the doctrine of  
6 equivalents. MediaTek has failed to meet its evidentiary burden that Freescale has willfully  
7 infringed any of the patents-in-suit. MediaTek has likewise failed to satisfy its evidentiary burden  
8 that Freescale has contributed or induced infringement of any of the patents-in-suit. MediaTek  
9 has been fully heard on these issues. As no reasonable jury could find for MediaTek on these  
10 issues, Freescale is entitled to judgment as a matter of law.

11 For direct infringement, in addition to the relief requested in this motion, Freescale is in  
12 the process of separately filing or has already separately filed specific motions for judgment as a  
13 matter of law. Those motions are directed to the '331 patent's "plurality of registers" and "clock  
14 frequency requirement" limitations, the '845 patent's "arbitrate among" limitation, and the  
15 "predetermined way" limitation of the '753 patent.

## **II.      LEGAL STANDARD**

Judgment as a matter of law is appropriate when “a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue.” Fed. R. Civ. P. 50(a)(1). In the Ninth Circuit, “[t]he test is whether ‘the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion, and that conclusion is contrary to that of the jury.’” White v. Ford Motor Co., 312 F.3d 998, 1010 (9th Cir. 2002) (quoting Forrett v. Richardson, 112 F.3d 416, 419 (9th Cir. 1997)). A “mere scintilla” of evidence is not enough to defeat a motion for judgment as a matter of law. Sullivan v. Cnty. of Allegheny, Pa., 112 Fed. App’x 176, 178 (3d Cir. 2004) (“Federal courts do not follow the rule that a scintilla of evidence is enough.”) (citing Walter v. Holiday Inns, Inc., 985 F.2d 1232, 1238 (3d Cir. 1993) (internal quotations omitted)); see also Ginsburg v. Richardson, 436 F.2d 1146, 1148 (3d Cir. 1971) (holding that substantial evidence “consists of more than a mere scintilla of evidence but may be

1 somewhat less than a preponderance") (quoting Laws v. Celebreeze, 368 F.2d 640, 642 (4th Cir.  
 2 1966)).

### 3           **III. FREESCALE IS ENTITLED TO JUDGMENT OF NON-INFRINGEMENT**

4           “An infringement analysis entails two steps. The first step is determining the meaning and  
 5 scope of the patent claims asserted to be infringed. The second step is comparing the properly  
 6 construed claims to the device accused of infringing.” Markman v. Westview Instruments, Inc.,  
 7 52 F.3d 967, 976 (Fed. Cir. 1995) (en banc) (citations omitted), aff’d, 517 U.S. 370 (1996);  
 8 Solvay S.A. v. Honeywell Int’l, Inc., 622 F.3d 1367, 1379 (Fed. Cir. 2010).

9           **A. Freescale Does Not Infringe U.S. Patent No. 6,088,753 As A Matter of  
 10 Law**

11           MediaTek has not offered sufficient evidence that Freescale infringes (either literally or  
 12 under the doctrine of equivalents) claim 2 of the ’753 patent. Specifically, there is no evidence  
 13 that any accused product meets the “interconnecting . . . in a predetermined way” limitation of  
 14 claim 2. As discussed in Freescale Semiconductor, Inc.’s Motion for Judgment as a Matter of  
 15 Law Regarding Claim Construction and Noninfringement of Claim 2 of U.S. Patent  
 16 No. 6,088,753 (Dkt. No. 681), MediaTek has presented its case under incorrect claim  
 17 constructions and MediaTek failed to demonstrate infringement of at least the above limitation of  
 18 claim 2, as properly construed. Freescale’s JMOL (Dkt. No. 681) is incorporated in its entirety  
 19 herein. No jury could reasonably find that Freescale infringes claim 2 of the ’753 patent and  
 20 therefore Freescale is entitled to a judgment as a matter of law that it does not infringe claim 2 of  
 21 the ’753 patent.

22           **B. Freescale Does Not Infringe U.S. Patent No. 6,738,845 As A Matter of  
 23 Law**

24           MediaTek has not offered sufficient evidence to meet its burden of showing that Freescale  
 25 infringes (either literally or under the doctrine of equivalents) claims 1 or 21 of the ’845 patent.  
 26 With respect to claim 1, MediaTek has not shown that Freescale satisfies the “arranged to  
 27 arbitrate among at least the first data processing subsystem, the second data processing  
 28 subsystem, and the DMA subsystem for access to the first slave subsystem” limitation. As

1 discussed in Freescale Semiconductor, Inc.’s Motion for Judgment as a Matter of Law Regarding  
 2 Claim Construction and Noninfringement of U.S. Patent No. 6,738,845 (Dkt. No. 660) and  
 3 Freescale Semiconductor, Inc.’s Opposition to MediaTek’s JMOL (Dkt. No. 666), MediaTek has  
 4 not offered sufficient evidence that the accused products arbitrate among at least the first data  
 5 processing subsystem, the second data processing subsystem, and the DMA subsystem. Freescale  
 6 Semiconductor, Inc.’s JMOL (Dkt. No. 660) and opposition to MediaTek’s JMOL (Dkt. No. 666)  
 7 are incorporated in their entirety herein. No jury could reasonably find that Freescale infringes  
 8 claim 1 of the ’845 patent and therefore Freescale is entitled to a judgment as a matter of law that  
 9 it does not infringe claim 1 of the ’845 patent.

### 10           **1.       The Accused Products Lack a Second Slave Subsystem**

11           Nor has MediaTek presented sufficient evidence that the accused products satisfy the  
 12 “second slave subsystem” limitation in claim 21. MediaTek’s expert’s conclusory testimony that  
 13 merely identifies a component (ESDCTLV2 block) within one of the accused products (the i.MX-  
 14 6) is insufficient to establish that this component meets the “second slave subsystem” claim  
 15 limitation.

16           19 Q. Let’s check that box.  
 17           20 and now let’s focus on limitation D. What does limitation  
 18           21 D recite?  
 19           22 A. A second slave subsystem comprising a fourth bus.  
 20           23 Q. Okay. Let’s compare that to Freescale’s products.  
 21           24 Let’s go to slide 81. Let’s go back to the schematic at  
 22           25 JTX30C.  
 23           1 What is the second slave subsystem in Freescale’s  
 24           2 products, the i.MX51 and -53?  
 25           3 A. It’s the ESDCT -- ESDCTLV2 block. And this is the  
 26           4 external memory controller. So ESDCTL stands for “enhanced  
 27           5 SDRAM controller” version 2.  
 28           6 Q. And that’s the block that you’ve circled in green at the  
 29           7 top right of the figure?  
 30           8 A. That’s the slave subsystem including that block, yes.  
 31           3 Q. Dr. Asanovic, before the break, we were talking about the  
 32           4 i.MX6SDL and DQ products in claim 1 of the ’845 patent.  
 33           5 can you -- is it fair to use, for example, the DQ product  
 34           6 as a representative?  
 35           7 A. Yes.

36           (Trial Tr. at 682:20-683:8, 707:3-7 (Asanovic).) This testimony is insufficient to demonstrate  
 37 that the i.MX6 products infringe claim 21 of the ’845 patent.

1           The testimony with regard to the alleged infringement of claim 21 by the other accused  
 2 products, i.MX51 and i.MX53, is even more conclusory. (Trial Tr. at 684:5-10 (Asanovic)  
 3 (“Q. And now let’s go back to the second slave subsystem. Let’s go back to claim 21 and turn to  
 4 slide 82. Can you tell us whether the i.MX51 and -53 products practice limitation D? A. They  
 5 do.”).) This testimony is plainly insufficient to prove that Freescale’s i.MX51 and i.MX53  
 6 products practice claim 21 of the ’845 patent.

7           **2. The Requests for Access to the Slave Subsystems of Accused  
 8 Products are Not Set at the Same Priority**

9           MediaTek’s evidence that the accused products satisfies the “during any period when all  
 10 requests for access to the first one of the first and second slave subsystems are of the same  
 11 priority level” limitation of claim 21 is similarly insufficient. Again, Dr. Asanovic’s testimony is  
 12 entirely conclusory. (Trial Tr. at 689:3-5 (Asanovic) (“Q. Can the ARM and the IPU in  
 13 Freescale’s products make requests that have the same priority? A. Yes, they can.”).) Though  
 14 Dr. Asanovic then identifies the portions of reference manuals as evidence meeting of the claim,  
 15 this too is conclusory.

16           The portions of JTX-0021 and JTX-0022 that MediaTek’s expert identifies to support this  
 17 conclusion is insufficient and do not directly implicate the accused masters. Page 247 of JTX-  
 18 0022 and Page 143 at JTX-0021 discusses what would occur if masters had equal priority, but  
 19 does not indicate that the accused masters (the ARM and IPU) are actually capable of having  
 20 equal priority, as configured and sold by Freescale. More importantly, as Dr. Asanovic appears to  
 21 acknowledge, the portion of the reference manuals identified by Dr. Asanovic refers to the  
 22 bandwidth available to the masters after arbitration occurs. (Trial Tr. at 689:9-691:22  
 23 (Asanovic).) This is fundamentally different than the priority of the slaves to initially access the  
 24 buses.

25           In light of the foregoing, it is clear that MediaTek has not presented sufficient evidence of  
 26 infringement of claim 21. Thus, no jury could reasonably find that Freescale infringes claim 21  
 27 of the ’845 patent and therefore Freescale is entitled to a judgment as a matter of law that it does  
 28 not infringe claim 21 of the ’845 patent.

1                   **C.       Freescale Does Not Infringe U.S. Patent No. 6,889,331 As A Matter of**  
 2                   **Law**

3                   MediaTek has not offered sufficient evidence that Freescale infringes (either literally or  
 4                   under the doctrine of equivalents) claims 11 or 35 of the '331 patent. Specifically, there is no  
 5                   evidence that any accused product meets the following limitations of claim 11:

- 6                   •     “clock frequency requirement”  
 7                   •     “plurality of registers”

8                   **1.       The Registers of the Accused Products Do Not Hold a Clock**  
 9                   **Frequency Requirement**

10                  MediaTek has failed to present sufficient evidence demonstrating that the accused  
 11                  products meet the “clock frequency requirement” or the “plurality of registers” limitations of  
 12                  claim 11. As discussed in Freescale Semiconductor, Inc.’s Motion for Judgment as a Matter of  
 13                  Law Regarding Claim Construction and Noninfringement of U.S. Patent No. 6,889,331 (Dkt.  
 14                  No. 680) and Freescale Semiconductor, Inc.’s Motion for Judgment as a Matter of Law Regarding  
 15                  Claim Construction of “Clock Frequency Requirement” and Noninfringement of U.S. Patent  
 16                  No. 6,889,331 (Dkt. No. 682), MediaTek has presented its case under incorrect claim  
 17                  constructions and MediaTek failed to demonstrate infringement of at least the above limitation of  
 18                  claim 11, as properly construed. Freescale’s two JMOL’s regarding the '331 patent (Dkt. No. 680  
 19                  & Dkt. No. 682) are incorporated in their entirety herein. No jury could reasonably find that  
 20                  Freescale infringes claim 11 of the '331 patent and therefore Freescale is entitled to a judgment as  
 21                  a matter of law that it does not infringe claim 11 of the '331 patent.

22                  Additionally, there is no evidence that Freescale infringes claim 35 of the '331 patent.  
 23                  More specifically, there is no evidence that any accused product satisfies the following limitations  
 24                  of claim 35:

- 25                   •     “at least one processor having a plurality of components operating with a plurality  
                     of clock signals;”  
 26                   •     “a dynamic power controller, connected to the power supply and the clock  
                     controller, adapted to monitor the at least one processor to determine a clock  
                     frequency requirement of the at least one processor and to determine a voltage  
                     requirement based on the clock frequency requirement, and configured to

1 transition the power supply and the clock controller to a power state defined by the  
 2 clock frequency frequent and the voltage requirement.”

3 MediaTek has not offered a shred of fact or expert testimony regarding claim 35 of the  
 4 ’331 patent. MediaTek’s expert opinions regarding the ’331 patent were limited to claim 11.  
 5 (Trial Tr. at 717:2-758:7 (Asanovic) (discussion of ’331 patent).) A search of the entire trial  
 6 transcript does not turn up a single reference to claim 35. Therefore, no jury could reasonably  
 7 find that MediaTek has proven that Freescale infringes claim 35 of the ’331 patent and Freescale  
 8 is entitled to a judgment of non-infringement as a matter of law that it does not infringe claim 35  
 9 of the ’331 patent.

10 **IV. FREESCALE IS ENTITLED TO JUDGMENT OF NON-INFRINGEMENT  
 11 UNDER THE DOCTRINE OF EQUIVALENTS**

12 MediaTek has offered no evidence, testimony, or analysis supporting its claims that the  
 13 accused products infringe the asserted patents under the doctrine of equivalents, let alone a proper  
 14 claim by claim analysis indicating that there are no substantial differences between the elements  
 15 of the accused products’ functionality and the limitations of the asserted claims, or that the  
 16 elements of the accused products perform substantially the same function in substantially the  
 17 same way to obtain substantially the same result as the limitations of the asserted claims. See TIP  
 18 Sys., LLC v. Phillips & Brooks/Gladwin, Inc., 529 F.3d 1364, 1376-77 (Fed. Cir. 2008)  
 19 (infringement under doctrine of equivalents may only be found where the accused device contains  
 20 an “insubstantial” change from the claimed invention or where the accused device functions in  
 21 substantially the same way as the claimed invention) (citing Graver Tank & Mfg. Co. v. Linde  
 22 Air Prods. Co., 339 U.S. 605, 610 (1950)); Voda v. Cordis Corp., 536 F.3d 1311, 1326 (Fed. Cir.  
 23 2008) (discussing doctrine of equivalence function, way, result analysis). MediaTek has  
 24 completely failed to present any evidence under either formulation of the doctrine of equivalents  
 25 analysis, and therefore Freescale is entitled to judgment as a matter of law.

26 Notably, MediaTek’s expert failed to provide any analysis whatsoever under the doctrine  
 27 of equivalents. Absent such claim by claim analysis, MediaTek cannot satisfy its burden to prove  
 28 infringement under the doctrine of equivalents. Network Commerce, Inc. v. Microsoft Corp.,

1 422 F.3d 1353, 1363 (Fed. Cir. 2005) (“[T]he difficulties and complexities of the doctrine require  
 2 that evidence be presented to the jury or other fact-finder through the particularized testimony of  
 3 a person of ordinary skill in the art, typically a qualified expert, who (on a limitation-by-limitation  
 4 basis) describes the claim limitations and establishes that those skilled in the art would recognize  
 5 the equivalents.”). There is no testimony in evidence that MediaTek has offered that  
 6 demonstrates that Dr. Asanovic has evaluated each accused Freescale product and compared each  
 7 of them to each asserted claim in each asserted patent and rendered an opinion that each product  
 8 infringes the asserted patents under the doctrine of equivalents. Because MediaTek has failed to  
 9 meet its burden, Freescale is entitled to a judgment of non-infringement as a matter of law that it  
 10 does not infringe any of the asserted patents pursuant to the doctrine of equivalents.

11       **V. FREESCALE IS ENTITLED TO JUDGMENT OF NO WILLFUL**  
 12       **INFRINGEMENT**

13       In order to prove that Freescale has willfully infringed any of the patents-in-suit,  
 14 MediaTek must prove, by clear and convincing evidence, that there is an objectively high  
 15 likelihood that Freescale’s actions constituted infringement of a valid patent and that Freescale  
 16 subjectively knew or recklessly disregarded that particular claims were valid and infringed . In re  
 17 Seagate Tech., LLC, 497 F.3d 1360, 1371 (Fed. Cir. 2007) (en banc). No reasonable jury could  
 18 find that any infringement of the asserted patents was willful by clear and convincing evidence  
 19 and thus Freescale is entitled to judgment as a matter of law.

20       To establish willfulness, “a patentee must show by clear and convincing evidence that the  
 21 infringer acted despite an objectively high likelihood that its actions constituted infringement of a  
 22 valid patent. The state of mind of the accused infringer is not relevant to this objective inquiry. If  
 23 this threshold objective standard is satisfied, the patentee must also demonstrate that this  
 24 objectively-defined risk . . . was either known or so obvious that it should have been known to the  
 25 accused infringer.” Seagate, 497 F.3d at 1371 (internal citation omitted). Thus, the willfulness  
 26 inquiry is a two-prong analysis, requiring an objective inquiry and a subjective inquiry. The  
 27 objective inquiry is a question for the Court, and the subjective inquiry is a question for the jury.  
 28 Bard Peripheral Vascular, Inc. v. W.L. Gore & Assocs., Inc., 682 F.3d 1003, 1007 (Fed. Cir.

1 2012). Both prongs must be established for the Court to make an ultimate finding of willfulness.  
 2 In this case, there is no evidence to find either prong is met.

3 First, to establish objective willfulness, MediaTek must prove by clear and convincing  
 4 evidence that there was an “objectively high likelihood that [Freescale’s] actions constituted  
 5 infringement of a valid patent.” Bard, 682 F.3d at 1005 (citing Seagate, 497 F.3d at 1371). If  
 6 Freescale had an objectively reasonable defense to infringement, its infringement cannot be said  
 7 to be objectively willful, and objective willfulness fails as a matter of law. See Spine Solutions,  
 8 Inc. v. Medtronic Sofamor Danek USA, Inc., 620 F.3d 1305, 1319 (Fed. Cir. 2010) (“The  
 9 ‘objective’ prong of Seagate tends not to be met where an accused infringer relies on a reasonable  
 10 defense to a charge of infringement.”); Bard, 682 F.3d at 1006 (objective willfulness  
 11 determination “entails an objective assessment of potential defenses based on the risk presented  
 12 by the patent.”).

13 In this case, Dr. Vahid and Dr. Asanovic had differing opinions concerning whether the  
 14 prior art references anticipate the ’331 and ’753 patents and whether Freescale infringes the ’331,  
 15 ’753, and ’854 patents. Dr. Vahid put forth a robust invalidity defense against the ’331 and ’753  
 16 patents, finding references that render those patents invalid as anticipated. (Trial Tr. at 1796:5-  
 17 1809:19, 1854:4-1867:14 (Vahid).) In light of Dr. Vahid’s opinion and the language in the prior  
 18 art references, the reasonable litigant could have believed that the ’331 and ’753 patents-in-suit  
 19 are anticipated by the prior art references. Accordingly, the Court cannot find that Freescale’s  
 20 reliance on an invalidity defense was objectively baseless.

21 Further, following becoming aware of the patents-in-suit, Freescale promptly studied the  
 22 patents, investigated the merits of MediaTek’s patent infringement allegations, and developed  
 23 sound legal defenses to those allegations including the reasonable beliefs that those patents were  
 24 not infringed and invalid. See, e.g., Gustafson, Inc. v. Intersystems Indus. Prods., Inc., 897 F.2d  
 25 508, 511 (Fed. Cir. 1990) (“Exercising due care, a party may continue to manufacture and may  
 26 present what in good faith it believes to be a legitimate defense without risk of being found on  
 27 that basis alone a willful infringer. That such a defense proves unsuccessful does not establish  
 28 that infringement was willful.”) (citation omitted); see also Powell v. Home Depot U.S.A., Inc.,

1 663 F.3d 1221, 1236 (Fed. Cir. 2011) (explaining that the appeal often presents question whether  
 2 defense or non-infringement theory was reasonable). Freescale's good faith defense of non-  
 3 infringement and invalidity alone weighs in favor of granting Freescale's JMOL for a finding of  
 4 willfulness.

5 Second, to establish subjective willfulness, MediaTek must prove by clear and convincing  
 6 evidence that Freescale subjectively knew or recklessly disregarded that particular claims were  
 7 valid and infringed. i4i Ltd. P'ship v. Microsoft Corp., 598 F.3d 831, 860 (Fed. Cir. 2010).  
 8 Knowledge of the asserted patents is mandatory but insufficient. Id. Willfulness cannot be  
 9 proven where knowledge of the patents is not shown. LML Holdings, Inc. v. Pac. Coast Dist.  
 10 Inc., No. 11-CV-06173 YGR, 2012 WL 1965878, at \*4 (N.D. Cal. May 30, 2012); Sealant Sys.  
 11 Int'l, Inc. v. TEK Global, No. C 11-0074 PSG, 2012 WL 13662, at \*3-4 (N.D. Cal. Jan. 4, 2012).  
 12 This standard has not been met in this case.

13 MediaTek failed to prove that Freescale had knowledge of the three patents-in-suit prior to  
 14 MediaTek's filing of a complaint in November 2011. In fact, MediaTek admitted that the first  
 15 notice of the patents-in-suit was when the complaint was filed and supplemented in and around  
 16 November 2011. (Yang Dep. at 219:5-22.) MediaTek's counsel admitted this during the trial  
 17 when Freescale was attempting to admit evidence of its first notice of the patents-in-suit:

18 We are going to make no suggestion that during the lead-up from  
 19 2007 to 2011 that somehow we notified Freescale of these patents.  
 20 We're trying to keep this out. What she's suggesting is that she  
 21 needs to have this evidence to somehow counter some kind of  
 inference that -- that they were notified during this period. We're  
 not going to make that inference. We have no basis to make that  
 inference.

22 (Trial Tr. at 1187:1-13 (admission of MediaTek's counsel, Keith Slenkovitch).)

23 Further, the parties have stipulated to the damages period. (See Dkt. No. 589, Order  
 24 Granting Add'l Joint Stipulations for Trial Purposes ¶¶ 33-34 (establishing the damages period  
 25 for the '845 and '331 patents from 11/3/2011 to present and the '753 patent from 11/4/2011 to  
 26 present).) As explained above, MediaTek's claim of willfulness may only be based on pre-filing  
 27 conduct. Seagate, 497 F.3d at 1374. Thus, as the stipulated damages period begins at the time of  
 28 the filing of the litigation, and MediaTek cannot point to any pre-filing knowledge of the patent,

1 MediaTek is unable to recover enhanced damages due to willful infringement on this theory.

2 Moreover, alleged copying is not proof of willfulness. MediaTek accused Freescale of  
 3 copying in its opening statement but provided no evidence of copying at trial. It is error to  
 4 conclude “that copying is synonymous with willful infringement.” Princeton Biochemicals, Inc.  
 5 v. Beckman Ins., Inc., 180 F.R.D. 254, 258 n.3 (D.N.J. 1997). And, in any event, MediaTek  
 6 provided absolutely no evidence of copying.

7 Further, any evidence of copying is irrelevant because there is no evidence that any  
 8 MediaTek product practices the asserted claims. At a minimum, copying evidence must relate to  
 9 the asserted claims — MediaTek has provided no evidence that it has a product that practices any  
 10 claim of any patents-in-suit or that Freescale copied any such product. ICU Med., Inc. v. RyMed  
 11 Techs., Inc., 752 F. Supp. 2d 486, 493 (D. Del. 2010); VNUS Med. Techs., Inc., v. Diomed  
 12 Holdings, Inc., 527 F. Supp. 2d 1072, 1073-74 (N.D. Cal. 2007). Therefore, Freescale is entitled  
 13 to judgment as a matter of law of no willful infringement.

14 MediaTek’s willfulness claim must be based on Freescale’s pre-filing conduct because it  
 15 cannot prove post-filing willfulness. Seagate, 497 F.3d at 1374 (“A patentee who does not  
 16 attempt to stop an accused infringer’s activities [via preliminary injunction] should not be allowed  
 17 to accrue enhanced damages based solely on the infringer’s post-filing conduct.”); LML  
 18 Holdings, Inc., No. 11-CV-06173 YGR, 2012 WL 1965878, at \*5 (Circumstances where  
 19 infringer’s post-filing conduct found willful involved material change that could create an  
 20 objectively high likelihood of infringing a valid patent. . . . Otherwise, accused infringer must  
 21 have pre-filing knowledge of patents at issue before patentee can accrue enhanced damages based  
 22 on post-filing willful conduct) (citations omitted). MediaTek has not moved for a preliminary  
 23 injunction. Nor has MediaTek has not offered any evidence at trial that Freescale knew that there  
 24 was a high likelihood that it was infringing a valid patent. Thus, the combination of a lack of pre-  
 25 filing knowledge of the patents or a motion for a preliminary injunction precludes MediaTek from  
 26 seeking post-filing willful infringement.

27 In sum, MediaTek’s proof of willfulness, both objective and subjective, pre-filing and  
 28 post-filing, is deficient, and Freescale is entitled to judgment as a matter of law.

1           **VI. FREESCALE IS ENTITLED TO JUDGMENT OF NO INDIRECT  
2           INFRINGEMENT**

3           There is no evidence that Freescale has indirectly infringed any patent-in-suit. In  
4 particular, MediaTek has not presented evidence that Freescale knowingly induced or contributed  
5 to infringement. See Commil USA, LLC v. Cisco Sys., Inc., 720 F.3d 1361, 1369 (Fed. Cir.  
6 2013).

7           A claim for actively inducing infringement requires scienter and mens rea. Global-Tech  
8 Appliances, Inc. v. SEB S.A., 131 S. Ct. 2060, 2068 (2011). Thus, to prevail on an inducement  
9 claim, MediaTek must show “first that there has been direct infringement, and second that  
10 [Freescale] knowingly induced infringement and possessed specific intent to encourage another’s  
11 infringement.” Kyocera Wireless Corp. v. Int’l Trade Comm’n, 545 F.3d 1340, 1353-54 (Fed.  
12 Cir. 2008) (internal quotation marks and citation omitted); accord DSU Med. Corp. v. JMS Co.  
13 Ltd., 471 F.3d 1293, 1306 (Fed. Cir. 2006) (en banc). “[M]ere knowledge of possible  
14 infringement by others does not amount to inducement; [rather,] specific intent and action to  
15 induce infringement must be proven.” DSU, 471 F.3d at 1305 (citation omitted).

16           MediaTek offered no evidence sufficient for a reasonable jury to find that Freescale knew  
17 that any of its acts would constitute infringement of the asserted patents. Nor did MediaTek offer  
18 any evidence sufficient for a reasonable jury to find that Freescale “specifically intended” that  
19 any alleged direct infringer (a Freescale customer) infringe the asserted patents. In fact,  
20 MediaTek offered no evidence whatsoever as to customer use and thus cannot prove indirect  
21 infringement.

22           In particular, MediaTek has not offered evidence demonstrating that Freescale supplied its  
23 products to customers with “knowledge that [its customers’ allegedly] induced acts caused  
24 infringement” of the accused patents. Commil USA, 720 F.3d at 1366 (quoting Global-Tech,  
25 131 S. Ct. at 2068) (internal quotations omitted). MediaTek has not proven that Freescale causes  
26 Continental to prompt Ford to import cars with Sync’s containing i.MX products. Likewise,  
27 MediaTek has not proven that Freescale causes Foxconn to prompt Lab126 to import eReaders  
28 containing i.MX products. The record is devoid of any evidence that Freescale knowingly

1 supplied its customers with products that it knew would cause its customers (or their customers)  
 2 to infringe the patents-in-suit. MediaTek has not met its burden in indirect infringement. Id.

3 Even MediaTek's attorneys' argument relating to inducement is insufficient to prove  
 4 inducement as a matter of law. (See, e.g., Trial Tr. at 841:16-18 (arguing that "Freescale knows  
 5 that its infringing i.MX 31 and i.MX 51 chips are built into systems specifically for cars and  
 6 trucks sold in the United States.").) Mere knowledge that an allegedly infringing chip is placed  
 7 into an end product is not sufficient to show inducement.

8 MediaTek's expert's conclusory testimony regarding the purpose and use of Freescale's  
 9 reference manuals (e.g., Trial Tr. at 759:16-24 (Asanovic)), its SABRE platform (e.g., Trial Tr. at  
 10 759:1-762:24 (Asanovic)), and Software Development Tool Resources (e.g., Trial Tr. at 766:5-21  
 11 (Asanovic), Trial Tr. at 768:5-15 (discussion regarding Ford Sync)) are wholly insufficient to  
 12 prove the requisite state of mind, and therefore insufficient as a matter of law to demonstrate  
 13 induced infringement. See Unisone Strategic IP, Inc. v. Life Techs. Corp., No. 3:13-cv-1278-  
 14 GPC-JMA, 2013 U.S. Dist. LEXIS 151761, at \*8 (S.D. Cal. Oct. 22, 2013) (granting motion to  
 15 dismiss claim of induced infringement because "finding that allegations that defendant 'provides  
 16 instruction, technical support, and training for using its own software' are conclusory and not  
 17 sufficient to plausibly infer that Defendant had the specific intent to induce others to infringe").  
 18 None of these customer resources provide any suggestion that Freescale knowingly or took  
 19 deliberate action to avoid learning that the allegedly induced acts of its customers infringed. See  
 20 Global-Tech, 131 S. Ct. at 2070-71; Kyocera Wireless, 545 F.3d at 1354 ("[T]he specific intent  
 21 necessary to induce infringement requires more than just intent to cause the acts that produce  
 22 direct infringement . . . the inducer must have an affirmative intent to cause direct infringement.")  
 23 (internal quotations and citations omitted).

24 Nor has MediaTek offered any evidence that the accused Freescale products are not a  
 25 staple product suitable for non-infringing use, or that Freescale provided its customers the  
 26 accused products with knowledge that the component was especially made or adapted for use in a  
 27 manner that infringed the asserted patents. See Vita-Mix Corp. v. Basic Holding, Inc., 581 F.3d  
 28 1317, 1327 (Fed. Cir. 2009); Fujitsu Ltd. v. Netgear Inc., 620 F.3d 1321, 1330 (Fed. Cir. 2010)

1 (“Our case law is clear that [plaintiff] must show that [defendant] knew that the combination for  
 2 which its components were especially made was both patented and infringing.”) (internal  
 3 quotations and citations omitted); Radware, Ltd. v. A10 Networks, Inc., No. C-13-02021-RMW,  
 4 2013 U.S. Dist. LEXIS 136942, at \*5 (N.D. Cal. Sept. 24, 2013) (“An essential element of  
 5 indirect infringement claim under both §§ 271(b) and(c) is that the accused infringer has  
 6 knowledge of the relevant patents and knowledge that its acts contribute to or encourage  
 7 the infringement of those patents.”) (emphasis in original).

8       Further, Freescale’s good-faith belief that it does not infringe the asserted patents and that  
 9 the ’331 and ’753 patents are invalid also prevents a showing of induced infringement.

10 See Commil USA, 720 F.3d at 1368-69 (holding that “inducer’s good-faith belief of invalidity  
 11 may negate the requisite intent for induced infringement”); DSU, 471 F.3d at 1307 (finding belief  
 12 of non-infringement sufficient evidence to support the jury’s verdict of no induced  
 13 infringement); Ecolab, Inc. v. FMC Corp., 569 F.3d 1335, 1351 (Fed. Cir. 2009), amended on  
 14 reh’g in part, 366 F. App’x 154 (Fed. Cir. 2009) (explaining that reasonable non-infringement  
 15 belief sufficient to support jury’s verdict that defendant did not possess the required intent). This,  
 16 in combination with MediaTek’s lack of evidence regarding customer use of Freescale’s products,  
 17 demonstrates that MediaTek cannot prove indirect infringement of any of the patents-in-suit and  
 18 that Freescale is entitled to judgment as a matter of law.

19       **VII. CONCLUSION**

20       For the aforementioned reasons, Freescale is entitled to judgment as a matter of law that it  
 21 does not infringe the patents-in-suit either literally or under the doctrine of equivalents, does not  
 22 willfully infringe the patents-in-suit, and does not indirectly infringe the claims of the asserted  
 23 patents.

24

25

26

27

28

1 Dated: September 15, 2014

Respectfully submitted,

2 By: /s/ Alexander J. Hadjis

ALEXANDER J. HADJIS (Pro Hac Vice)  
Alexander.Hadjis@cwt.com  
CADWALADER, WICKERSHAM & TAFT LLP  
700 Sixth Street, NW  
Washington, DC 20001  
Telephone: (202) 862-2323  
Facsimile: (202) 862-2400

RUDY Y. KIM (CA SBN 199426)  
RudyKim@mofo.com  
MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304  
Telephone: (650) 813-5600  
Facsimile: (650) 494-0792

JOSHUA A. HARTMAN (Pro Hac Vice)  
JHartman@mofo.com  
MORRISON & FOERSTER LLP  
2000 Pennsylvania Avenue, NW  
Suite 6000  
Washington, DC 20006  
Telephone: (202) 887-1500  
Facsimile: (202) 887-0763

15 Attorneys for Defendant-Counterclaimant  
16 FREESCALE SEMICONDUCTOR, INC.,

17 **ATTESTATION OF E-FILED SIGNATURE**

18 I, Rudy Kim, am the ECF User whose ID and password are being used to file this  
19 document. In compliance with General Order 45, X.B., I hereby attest that Alexander J. Hadjis  
20 has concurred in this filing.

21 Dated: September 15, 2014

/s/ Rudy Kim

Rudy Kim